REMARKS

Telephonic Interview

First of all, Applicant's undersigned attorney wishes to thank the Examiner for the opportunity, on August 31, 2006, to conduct a telephonic interview on the pending Application and for his careful attention to the matter. During the interview, Ken Plochinski and the undersigned discussed with the Examiner the patentability of Claim 42. We agreed to amend Claim 42 to recite "counting" instead of "tracking" to remove potential ambiguity over the use of the term "tracking."

Claim Objections

Claim 42 stands objected because of an informality and has been amended to correct the typographical error pointed out by the Examiner. Applicant respectfully requests withdrawal of this claim objection.

Claim Rejections – 35 U.S.C. § 112

Claims 42 – 82 stand rejected under 35 U.S.C. § 112, in a final office action dated June 14, 2006, as failing to comply with the written description requirement because the disclosure allegedly fails to support the tracking of how many times a video segment is played being enabled via the reader device instructing a servo to move to tracks of the storage medium containing the segments to be viewed.

Independent Claims 42, 61, and 71 and dependent Claims 46, 62, and 73 have been amended to replace forms of the word "track" with forms of the word "count" to clarify the claims by removing potential ambiguity over the use of the verb "track."

Applicant respectfully suggests that the specification supports the recitation that the counting is enabled via the reader device instructing a servo to move to tracks of the storage medium containing the segments to be viewed. For example, the specification contains the following statements:

- A "special purpose chip, or special modifications to the servo chip are needed to read the disk." (Specification, p. 8, ll. 16-17.)

- "The reader/player box must also be able to monitor, control and charge the customer based upon the number of plays of a movie." (Specification, p. 9, ll. 1-3.)

- "A controller chip and memory module 38 instructs the servo to move to tracks containing the material to be viewed. Controller chip and memory module 38 also conducts accounting, digital rights management (DRM) and communication functions with both the viewer and the video distribution system operator." (Specification, p. 15, ll. 7-12.)

One skilled in the art would understand from the disclosure to program the controller chip and memory module so that when the reader device instructs the servo to move to tracks of a multilayer storage medium containing video to be viewed, the accounting function, and in particular the counting of the number of plays of a video, is activated. Thus, the counting of how many times a video segment is played is enabled via the reader device instructing a servo to move to tracks containing the video segments. Accordingly, Applicant respectfully requests that the claim rejections under 35 U.S.C. § 112 be withdrawn.

Claim Rejections – 35 U.S.C. § 103

All of the claims pending in this application stand rejected in a final office action dated June 14, 2006. Independent Claims 42, 61, and 71 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Russo (US Pat. No. 5,619,247) in view of Knight et al. (US Pat. No. 6,243,350).

Applicant respectfully submits that Russo and Knight, individually or in combination, do not teach "counting with the reader device how many times a video segment of the plurality of video segments is played, said counting enabled via the reader device instructing a servo to move to tracks of said multilayer storage medium containing video segments to be viewed," as recited in claim 42. Russo teaches keeping track of some information regarding program viewing such as: "records of which subscribers have actually replayed (and not just stored) program material" (col. 3, ll. 22-24), "a percentage of the program which has already been viewed" (col. 5, ll. 57-58), "the last date associated with the viewing" (col. 5, ll. 58-59), and "programs that have been selected for output' (col. 10, l. 33). None of the information tracked according to the Russo disclosure relates to *how many times* a video is played. Although Russo teaches allowing a viewer "to view a selected program as many times as desired over a particular, predetermined period of time," the system is described only as keeping track "of such time periods." (col. 5, ll. 34-47) There is no description of counting how many times a video is played. Thus, although Russo teaches a system that keeps track of

which movie has been played, it does not teach counting "with the reader device," nor counting "how many times a video segment" is played, nor enabling said counting "via the reader device instructing a servo to move."

Knight discloses a "tracking mechanism to direct the beam to the selected location and maintain the beam in the selected track" (Knight, col. 21, ll. 13-15) and a focusing servo (Knight, col. 21, ll. 23-27). Knight does not disclose or suggest using the tracking mechanism or the focusing servo to enable counting how many times a video segment is played.

Thus, Applicant respectfully submits that Claim 42 is patentably defined over the cited art and requests withdrawal of the rejection and allowance of Claim 42.

Independent Claims 61 and 71, as amended, contain similar recitations related to counting how many times a video segment is played:

> Claim 61: "... wherein the reader device is configured to count which and how many times the video segments are played, said counting enabled via the reader device instructing a servo to move to tracks of said multilayer storage medium containing video segments to be viewed."
>
> Claim 71: "... wherein the playback device is configured to count how many times a video segment of the plurality of video segments is played, said counting enabled via the playback device instructing a servo to move to tracks of said multilayer storage medium containing video segments to be viewed.

For the reasons explained above with respect to Claim 1, Applicant respectfully submits that the cited references, alone or in combination, do not teach these claim recitations. Thus, Applicant submits that Claims 61 and 71 are patentably defined over the cited art and, accordingly, respectfully requests that the rejections of Claims 61 and 71 be withdrawn and that the claims be allowed to issue.

Claims 43-50, 52-53, 57, 62-66, 72-75, 78, and 82 also stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Russo (US Pat. No. 5,619,247) in view of Knight et al. (US Pat. No. 6,243,350). Claims 54-56, 59-60, 67-68, 70, 76, 80, and 81 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Russo in view of Knight et al. and further in view of Braitberg (WO 01/54410 A2). Claim 51 stands rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Russo in view of Knight et al. and further in view of Goode et al. (US Pre-Grant Pub. 2004/0083492). Claims 58 and 77 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Russo in view of Knight et al.

and further in view of Voyticky (US Pat. No. 6,438,751). Claim 69 stands rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Russo in view of Knight et al. and Braitberg. Each of these claims depends, either direct or indirectly from Claims 41, 61, or 72, and, thus, should be allowable because each depends from an allowable claim.

Conclusion

As explained above, Applicant submits that Claims 42 – 82, currently pending in the Application, are patentably defined over the cited art. The Examiner is respectfully urged to reconsider the application. Withdrawal of the claim rejections and allowance of all pending claims is earnestly solicited.

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